

The opinion in support of the decision being entered today was **not** written for publication and is **not** binding precedent of the Board.

Paper No. 42

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte SUN-YI HUANG, LOUIS ROSATI,
and JOSEPH J. KOZAKIEWICZ

Appeal No. 2000-0836
Application No. 08/727,693

ON BRIEF

Before CAROFF, GARRIS, and KRATZ, Administrative Patent Judges.
CAROFF, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 1-44, all the claims in appellants' application.

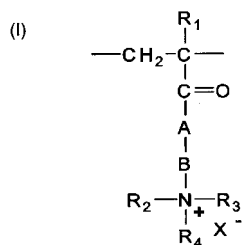
The claims on appeal relate to methods of using an aqueous dispersion of particular polymers, or "aqueous admixture thereof".

Appellants acknowledge on page 5 of their brief that all of the appealed claims stand or fall together. Accordingly, we need

only consider claim 1 which is illustrative of appellants' invention and which reads as follows:

1. A method comprising (a) intermixing an aqueous dispersion of polymers, or aqueous admixture thereof, in an amount effective for dewatering, with a suspension of dispersed solids, and (b) dewatering said suspension of dispersed solids, said aqueous dispersion being comprised of

(i) dispersed droplets comprised of a first cationic water-soluble or water-swellaible polymer having at least one recurring unit of the formula (I),



wherein R_1 is H or CH_3 , A is O or NH, B is an alkylene or branched alkylene or oxyalkylene group having from 1 to 5 carbons, R_2 is a methyl, ethyl, or propyl group, R_3 is a methyl, ethyl, or propyl group, R_4 is an alkyl group having from 1 to 10 carbons, or an aryl, benzyl or $C_2H_4C_6H_5$ group, and X is a counterion, and R_2 , R_3 , and R_4 together contain a total of at least 4 carbon atoms; and

(ii) at least one second water-soluble polymer different from said first polymer,

wherein a homogeneous composition is obtained in the absence of said (ii).

Prior art references relied upon by the examiner on appeal are:

Appeal No. 2000-0836
Application No. 08/727,693

Allenson et al. (Allenson '508)	4,588,508	May 13, 1986
Allenson et al. (Allenson '951)	4,699,951	Oct. 12, 1987
Takeda et al. (Takeda '655)	4,929,655	May 29, 1990
Takeda et al. (Takeda '590)	5,006,590	Apr. 9, 1991
Messner et al. (Messner)	5,403,883	Apr. 4, 1995
Ramesh et al. (Ramesh)	5,597,858	Jan. 28, 1997
Yamamoto (Japanese)	Sho 52-71,392	Jun. 14, 1977

The appealed claims stand rejected either under 35 U.S.C.
§ 102 for anticipation, or under 35 U.S.C. § 103 for obviousness.

The claims, the statutory grounds of rejection, and the
references applied in each rejection, are grouped as follows:

	<u>Claims</u>	<u>Grounds</u>	<u>References</u>
I.	1, 3-9, 11-30, 32-33, 36-38, 41-42	102(b)/103	Takeda (590)
II.	1-9, 11-30, 32-33, 36-38, 41-42	103	Takeda (590) in view of Messner, Japan or Allenson (508)
III.	1, 3-33, 36-38, 41-42	102(e)/103	Ramesh
IV.	1-33, 36-38, 41-42	103	Ramesh in view of Messner
V.	1-9, 11-19, 21, 24, 28-30, 32-33, 36-37, 41-42	102(b)/103	Takeda (655)
VI.	1-9, 11-19, 21-30, 32-44	102(b)/103	Allenson (508 or 951) alone, or in view of Messner

As noted in both the appellants' brief (page 5) and the
examiner's answer (page 3), the disposition of all the rejections

Appeal No. 2000-0836
Application No. 08/727,693

at issue hinges on the interpretation of the phrase "or aqueous admixture thereof" as that phrase is used in the claims on appeal.

Having carefully considered the record in light of the opposing positions taken by the appellants and the examiner, we agree with the examiner that the phrase in question must be broadly construed. Accordingly, we shall affirm each of the rejections before us.

In particular, we find that the expression "or aqueous admixture thereof", in the context in which it is used in the instant claims, alternatively reads upon either an admixture of water with the previously referred to dispersion, or an admixture of water directly with the previously referred to polymers without first obtaining a dispersion.

This interpretation is consistent with the plain meaning of the individual terms in the expression at issue, and is also consistent with the way in which the expression is defined in appellants' specification.

More particularly, appellants overlook the fact that the word "thereof" could just as likely be construed as referring directly to the preceding "polymers" as it could be construed as referring to a "dispersion". Even more to the point, appellants' own

Appeal No. 2000-0836
Application No. 08/727,693

specification (page 28, lines 28-30) defines an "aqueous admixture" in this alternative sense as follows:

. . . an aqueous admixture of the dry polymer or aqueous dispersion is prepared by intermixing the dry polymer or aqueous dispersion with water . . . [underlining added for emphasis]

Accordingly, appellants' arguments to the contrary notwithstanding, one need not start with the aqueous dispersion to obtain an aqueous admixture; by the teachings of appellants' own specification one may start with dry polymer, rather than a dispersion, to form a dilute polymer solution.

Appellants do not dispute that the instant claims are anticipated, or rendered obvious, by the applied prior art if those claims are broadly construed as the examiner has done. Since we hold that the examiner's broad interpretation is reasonable and consistent with appellants' specification, we shall affirm all of the rejections at issue.

Moreover, in the event of further prosecution of the involved subject matter, the examiner should take note of the fact that at least some of the applied prior art references do teach aqueous dispersions of polymers, statements by the examiner to the contrary notwithstanding. For instance, see Takeda (590) (Abstract; Example 5). Also, see In re Best, 195 USPQ 430 (CCPA 1977).

Appeal No. 2000-0836
Application No. 08/727,693

For the foregoing reasons, the decision of the examiner is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a).

AFFIRMED

MARC L. CAROFF)	
Administrative Patent Judge)	
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)	
)	
)	BOARD OF PATENT
BRADLEY R. GARRIS)	APPEALS
Administrative Patent Judge)	AND
)	INTERFERENCES
)	
)	
PETER F. KRATZ)	
Administrative Patent Judge)	

MLC/lp

Appeal No. 2000-0836
Application No. 08/727,693

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